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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,487	03/01/2004	Katsuya Kitamori	1614.1389	7542
21171	7590	11/28/2007		
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER MURPHY, RHONDA L	
			ART UNIT	PAPER NUMBER
			2616	
			MAIL DATE	DELIVERY MODE
			11/28/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/788,487

Applicant(s)

KITAMORI ET AL.

Examiner

Rhonda Murphy

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-11 is/are rejected.
- 7) ☒ Claim(s) 6 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. This communication is responsive to the amendment filed on 9/12/07. Accordingly, claims 1-12 are currently pending in this application.

### ***Response to Arguments***

1. Applicant's arguments filed 9/12/07 have been fully considered but they are not persuasive. Applicant argues Luft does not suggest the amended limitation: using concatenation setting information obtained from concatenation setting information table using an identifier. However, Examiner respectfully disagrees. Examiner would like to direct the applicant to the rejection of claims 1 and 7 below, and Table 1 and column 15, lines 31-44, where the above limitation is taught by Luft.
2. Thus, Examiner's position is that all claim limitations have been met and the rejection has been maintained.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1 – 5 and 7 – 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luft et al. (US 7,209,436).

**Regarding claims 1 and 7**, Luft teaches a transmission apparatus used for forming a network that supports a bidirectional ring switching capability, the transmission apparatus (Fig. 8B) comprising: an obtaining part obtaining an identifier from the ring switching request (col. 15, lines 40-44), and concatenation setting information corresponding to the identifier from a concatenation setting information table that includes concatenation settings information for each identifier of transmission apparatuses forming the network (Table 1; col. 15, lines 31-44); and a setting part making a concatenation setting for a protection line according to the concatenation setting information (col. 16, lines 30-38 and 61-65).

In the above embodiment, Luft fails to explicitly teach a detecting part for detecting a ring switching request from a received signal including identifiers of transmission apparatuses between which a failure occurs.

However, in another embodiment Luft teaches a detecting part for detecting a ring switching request from a received signal (Fig. 5; CC 509; col. 8, lines 44-56) including identifiers of transmission apparatuses between which a failure occurs (col. 13, lines 1-5).

It would have been obvious to one skilled in the art to include a detecting part in the embodiment of Figure 8, in order to discover a switching request has been made so as to transmit data on a protection path.

Furthermore, it would have been obvious to one skilled in the art to include identifiers of transmission apparatuses between which a failure occurs, so as to determine the apparatuses between which a failure has occurred.

**Regarding claims 2 and 8**, Luft teaches the transmission apparatus as claimed in claim 1, further comprising: a storing part storing the concatenation setting information table (Table 1; col. 15, lines 31-50)

**Regarding claims 3 and 9**, Luft teaches the transmission apparatus as claimed in claim 1, wherein the obtaining part obtains the concatenation setting information from information received from another transmission apparatus (col. 15, lines 29-35).

**Regarding claims 4 and 10**, Luft teaches the transmission apparatus as claimed in claim 2, the transmission apparatus further comprising: a detecting part detecting a concatenation setting in the transmission apparatus (Fig. 5; CC 509;

col. 8, lines 44-56); and a sending part adding the respective identifier of the transmission apparatus to concatenation setting information corresponding to the concatenation setting and sending the concatenation setting information with the respective identifier to another transmission apparatus (col. 15, lines 31-44; further described in col. 16, lines 30-38 and 61-65).

**Regarding claims 5 and 11**, Luft teaches the transmission apparatus as claimed in claim 4, wherein, when the respective identifier is changed, the sending part adds the changed identifier to the concatenation setting information and sends the concatenation setting information with the changed identifier to another transmission apparatus (col. 15, lines 29-44).

#### ***Allowable Subject Matter***

4. Claims 6 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is

filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rhonda Murphy whose telephone number is (571) 272-3185. The examiner can normally be reached on Monday - Friday 9:00 - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service

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Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Rhonda Murphy  
Examiner  
Art Unit 2616

RM

A handwritten signature in black ink, appearing to read 'Huy D. Vu', with a long horizontal flourish extending to the right.

HUY D. VU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600